UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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HC2, INC., : Civil Action No.: 20-cv-3178 (LJL)

Plaintiff,

v.

ANDREW DELANEY,

Defendant.

<u>DECLARATION OF MICHAEL NACCHIO, ESQ. IN SUPPORT OF HC2, INC.'S</u> <u>MOTION TO SUBSTITUTE THE CHAPTER 7 TRUSTEE</u>

I, MICHAEL NACCHIO, declare as follows:

- 1. I am an attorney at law in the State of New York, admitted practice before this Court, and am a Shareholder in the law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., attorneys for HC2, Inc. ("HC2") in the above-captioned matter.
- 2. I submit this declaration in support of HC2's motion to substitute Gregory Messer, Esq., Chapter 7 Trustee of Delaney's bankruptcy estate, in place of Andrew Delany ("Delany") as the real party in interest.
- 3. Attached hereto as **Exhibit "A"** is a true and correct copy of the docket report in <u>In re</u>

 <u>Andrew J. Delaney</u>, No. 1-20-44372 (Bankr. E.D.N.Y.), current as of October 8, 2021.
- 4. Attached as **Exhibit "B"** is a true and correct copy of the Order of the Honorable Jil Mazer-Marino, United States Bankruptcy Judge, dated October 6, 2021, in <u>In re Andrew J. Delaney</u>, approving the Stipulation by and Between the Chapter 7 Trustee and HC2, Inc., Resolving All Claims.

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5. The settlement between Mr. Messer and HC2, Inc. does not resolve HC2's affirmative

claims against Mr. Delaney. Mr. Delaney has not been granted a discharge but HC2 will promptly

advise this Court of the status of its claims against Mr. Delaney if Mr. Delaney is granted a

discharge.

6.

I declare under penalty of perjury that the above is true and correct, and that I executed this

declaration this 8th day of October 2021.

/s/ Michael Nacchio
Michael Nacchio

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